

# Senate File 478 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON HUMAN RESOURCES  
(SUCCESSOR TO SF 124)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for the registration of practitioners of the  
2 healing arts, providing remedies, and making an appropriation.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2121SV 82  
5 nh/je/5

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1 1 Section 1. LEGISLATIVE FINDINGS AND INTENT. The general  
2 assembly recognizes the constitutional right of privacy and  
3 self-determination in regard to health care and that the  
4 effective exercise of consumer choice with regard to health  
5 care provided by nonlicensed practitioners requires the full  
6 and timely disclosure of the background and qualifications of  
7 such practitioners.  
8 Sec. 2. NEW SECTION. 147.105 REGISTRATION OF HEALING  
9 ARTS PRACTITIONERS NOT REQUIRING LICENSURE.  
10 1. Beginning July 1, 2008, a practitioner of the healing  
11 arts who is not required to be licensed under Title IV,  
12 subtitle 3, may apply to the department of public health for  
13 registration pursuant to this section. The application shall  
14 contain all of the following:  
15 a. A statement of the nature of the health care diagnoses  
16 and treatment to be provided by the practitioner.  
17 b. The education, training, experience, or other  
18 credentials or qualifications of the practitioner regarding  
19 the diagnoses and treatment to be provided.  
20 c. Whether the practitioner has voluntarily relinquished  
21 or had revoked a license to practice any health care  
22 profession in this state or in any other jurisdiction, has  
23 been disciplined by a licensing board or agency, has been  
24 determined civilly liable for any act or omission related to  
25 the provision of health care, or has been the subject of a  
26 criminal prosecution for any act or omission related to the  
27 provision of health care.  
28 d. Proof of liability insurance meeting the liability  
29 standards required for malpractice insurance for physicians.  
30 2. Prior to approval of such registration by the  
31 department, criminal history, child abuse, and dependent adult  
32 abuse record checks shall be performed in regard to the  
33 practitioner as provided in this subsection.  
34 a. The department of public health shall request that the  
35 department of public safety perform a criminal history check  
2 1 and the department of human services perform child abuse and  
2 2 dependent adult abuse record checks of the practitioner in  
2 3 this state.  
2 4 b. If the person has been convicted of a crime under a law  
2 5 of any state or has a record of founded child or dependent  
2 6 adult abuse, the department of human services shall, upon  
2 7 request of the department of public health, perform an  
2 8 evaluation to determine whether the crime or founded child or  
2 9 dependent adult abuse warrants prohibition of registration.  
2 10 The evaluation shall be performed in accordance with  
2 11 procedures adopted for this purpose by the department of human  
2 12 services.  
2 13 c. If the department of public safety determines that a  
2 14 person has committed a crime and the practitioner still  
2 15 requests registration pursuant to this section, the department  
2 16 of public safety shall notify the practitioner that an  
2 17 evaluation, if requested by the department of public health,  
2 18 will be conducted by the department of human services to

2 19 determine whether prohibition of registration is warranted.  
2 20 If a department of human services child or dependent adult  
2 21 abuse record check shows that the practitioner has a record of  
2 22 founded child or dependent adult abuse, the department of  
2 23 human services shall inform the practitioner that an  
2 24 evaluation, if requested by the department of public health,  
2 25 will be conducted to determine whether prohibition of  
2 26 registration is warranted. The department of human services  
2 27 has final authority in determining whether prohibition of  
2 28 registration is warranted.

2 29 d. The department of public health may access the single  
2 30 contact repository established by the department pursuant to  
2 31 section 135C.33 as necessary to perform record checks of  
2 32 practitioners being considered for registration.

2 33 Sec. 3. NEW SECTION. 147.105A REGISTERED PRACTITIONERS  
2 34 == PRACTICE NOT A VIOLATION == EXCEPTIONS.

2 35 1. Notwithstanding any other provision of law to the  
3 1 contrary, a practitioner of the healing arts who is not  
3 2 licensed by this state as a health care professional, but who  
3 3 is registered pursuant to section 147.105, does not violate  
3 4 Title IV, subtitle 3, pertaining to health care provider  
3 5 licensure requirements, unless the practitioner does any of  
3 6 the following:

3 7 a. Conducts surgery, sets fractures, or performs any other  
3 8 procedure on any person that invades the skin.

3 9 b. Prescribes or administers x-ray radiation, a  
3 10 light-emitting device including a laser, or ultrasound  
3 11 technologies.

3 12 c. Prescribes or administers drugs, devices, or controlled  
3 13 substances for which a prescription by a licensed health care  
3 14 provider is required.

3 15 d. Represents, states, indicates, advertises, or implies  
3 16 that the person has been issued a license to practice a health  
3 17 care profession in this state.

3 18 2. This section shall not be construed to authorize the  
3 19 practice of lay midwifery, ayurvedic medicine, or naturopathic  
3 20 medicine.

3 21 Sec. 4. NEW SECTION. 147.105B DISCLOSURES BY REGISTERED  
3 22 PRACTITIONERS.

3 23 1. A practitioner of the healing arts who is registered  
3 24 pursuant to section 147.105, who advertises in any media that  
3 25 the person is a practitioner of healing arts diagnoses and  
3 26 treatments, or who receives financial compensation for the  
3 27 provision of healing arts diagnoses and treatments, shall,  
3 28 prior to the provision of such services, provide a prospective  
3 29 client a plainly worded written statement disclosing the  
3 30 following:

3 31 a. That the practitioner is not a licensed health care  
3 32 provider pursuant to the licensure provisions of any of the  
3 33 chapters of Title IV, subtitle 3.

3 34 b. The nature of the health care diagnoses and treatment  
3 35 to be provided.

4 1 c. The education, training, experience, or other  
4 2 credentials or qualifications of the unlicensed practitioner  
4 3 regarding the diagnoses and treatment being provided,  
4 4 accompanied by the following statement:

4 5 "The state of Iowa has not adopted educational and training  
4 6 standards for unlicensed providers of health care services.  
4 7 This statement of credentials is for informational purposes  
4 8 only. If a client wishes to receive health care from a  
4 9 licensed health care provider, the client may seek such care  
4 10 at any time. Clients receiving treatment from a licensed  
4 11 provider of health care should consult with that licensed  
4 12 provider before modifying or discontinuing such treatment."

4 13 d. That the practitioner is registered with the department  
4 14 of public health and that the registration is posted at the  
4 15 location where services are provided.

4 16 e. That the parent or legal guardian of a minor seeking  
4 17 treatment has a right to request and receive written  
4 18 permission from the practitioner for access to the relevant  
4 19 data in regard to the practitioner in the Iowa child abuse  
4 20 registry.

4 21 2. A practitioner registered pursuant to section 147.105  
4 22 shall obtain written acknowledgment from a prospective client  
4 23 indicating that the prospective client has been provided with  
4 24 the statement of disclosures pursuant to subsection 1, and  
4 25 shall supply the client with a copy of the disclosures and  
4 26 acknowledgment. The acknowledgment shall be retained by the  
4 27 practitioner for a two-year period.

4 28 3. Any advertisement by a practitioner registered pursuant  
4 29 to section 147.105 shall disclose that the provider has not

4 30 been issued a license to practice a licensed health care  
4 31 profession in this state but is registered with the state of  
4 32 Iowa. Any such advertisement in print or electronic media  
4 33 shall include the following statement in twelve point type or  
4 34 larger:

4 35 "The state of Iowa has not adopted educational or training  
5 1 standards for unlicensed providers of health care and has made  
5 2 no determination whatsoever as to the scientific validity or  
5 3 safety or effectiveness of such care."

5 4 4. Upon request, a practitioner registered pursuant to  
5 5 section 147.105, shall give written permission to a parent or  
5 6 legal guardian of a minor to allow the parent or legal  
5 7 guardian to access data in regard to the practitioner in the  
5 8 central registry for founded child abuse pursuant to section  
5 9 235A.15, subsection 2, paragraph "f".

5 10 Sec. 5. NEW SECTION. 147.105C SCOPE OF CHAPTER ==  
5 11 REMEDIES.

5 12 1. The department may issue an immediate cease and desist  
5 13 order, or seek a temporary or permanent injunction, against a  
5 14 practitioner registered pursuant to section 147.105, who fails  
5 15 to comply with the provisions of sections 147.105A and  
5 16 147.105B.

5 17 2. State criminal and civil law not relating to the  
5 18 provision of health care shall continue to apply to  
5 19 practitioners registered pursuant to section 147.105.

5 20 3. This section does not limit the right of any person to  
5 21 seek relief for negligent or willful harm, or to seek any  
5 22 other civil remedy against a practitioner registered pursuant  
5 23 to section 147.105.

5 24 4. This section does not restrict the state from taking  
5 25 action regarding the maltreatment of minors.

5 26 Sec. 6. APPROPRIATION. There is appropriated from the  
5 27 general fund of the state to the department of public health  
5 28 for the fiscal year beginning July 1, 2007, and ending June  
5 29 30, 2008, the following amount, or so much thereof as is  
5 30 necessary, to be used for the purposes designated:

5 31 For implementation of registration procedures for  
5 32 practitioners of the healing arts as provided in this Act,  
5 33 including salaries, support, maintenance, miscellaneous  
5 34 purposes, and for not more than the following full-time  
5 35 equivalent positions:

6 1	.....	\$	500,000
6 2	.....	FTEs	5.00

6 3 EXPLANATION

6 4 This bill provides for the registration of practitioners of  
6 5 the healing arts and makes an appropriation.

6 6 The bill contains intent language indicating that the  
6 7 general assembly recognizes the constitutional right to  
6 8 privacy and self-determination in regard to health care and  
6 9 that the effective exercise of consumer choice in regard to  
6 10 care provided by nonlicensed practitioners requires the full  
6 11 and timely disclosure of such practitioners' background and  
6 12 qualifications.

6 13 The bill provides for the voluntary registration of  
6 14 practitioners of the healing arts who are not required to be  
6 15 licensed as health care professionals. The bill requires an  
6 16 application for such registration to contain information  
6 17 regarding the nature of the health care diagnoses and  
6 18 treatment provided; the education, training, experience, or  
6 19 other qualifications of the practitioner; any health  
6 20 care-related sanction, discipline, civil liability, or  
6 21 criminal violation; and proof of liability insurance.  
6 22 Applicants for registration are subject to criminal history,  
6 23 child abuse, and dependent adult abuse record checks.

6 24 The bill provides that a registrant's provision of healing  
6 25 arts diagnoses and treatment does not violate Code Title IV,  
6 26 subtitle 3, pertaining to health care provider licensure  
6 27 requirements, unless the provider of such services conducts  
6 28 surgery, sets fractures, or performs any other procedure on  
6 29 any person that invades the skin; prescribes or administers  
6 30 x-ray radiation; prescribes or administers drugs, devices, or  
6 31 controlled substances for which a prescription by a licensed  
6 32 health care provider is required; or represents, states,  
6 33 indicates, advertises, or implies that the person has been  
6 34 issued a license to practice a health care profession in this  
6 35 state.

7 1 The bill requires a registrant who advertises in any media  
7 2 that they are a provider of healing arts diagnoses and  
7 3 treatment, or who receives financial compensation for the  
7 4 provision of healing arts diagnoses and treatment, to supply a  
7 5 prospective client prior to the provision of such services

7 6 with a plainly worded written statement making several  
7 7 disclosures. It must be disclosed that the provider is not a  
7 8 licensed health care provider; the nature of the health care  
7 9 diagnoses and treatment to be provided; and the education,  
7 10 training, experience, or other credentials or qualifications  
7 11 of the unlicensed provider regarding the diagnoses and  
7 12 treatment being provided, accompanied by a statement that Iowa  
7 13 has not adopted educational and training standards for  
7 14 unlicensed providers of health care services; that the  
7 15 statement of credentials is for informational purposes only;  
7 16 and that if a client wishes to receive health care from a  
7 17 licensed health care provider, the client may seek such care  
7 18 at any time and should consult with a licensed provider before  
7 19 modifying or discontinuing such existing treatment. A  
7 20 registrant must also disclose that the practitioner is  
7 21 registered with the department and that the registration is  
7 22 posted where services are provided and that the parent or  
7 23 legal guardian of a minor seeking treatment has a right to  
7 24 request and receive written permission from the practitioner  
7 25 for access to relevant data in the Iowa child abuse registry  
7 26 regarding the practitioner. The bill provides that written  
7 27 acknowledgment from a prospective client that the client was  
7 28 provided a statement of disclosures must be obtained, and  
7 29 retained for a two-year period, and that the prospective  
7 30 client shall receive a copy of the disclosures and  
7 31 acknowledgment.

7 32 The bill additionally provides that an advertisement by a  
7 33 registrant shall disclose that the provider has not been  
7 34 issued a license to practice a licensed health care profession  
7 35 but is registered with the state, and that upon request, a  
8 1 registrant shall give written permission to a parent or legal  
8 2 guardian of a minor to allow the parent or legal guardian to  
8 3 access the Iowa child abuse registry.

8 4 The bill also provides for the scope of the bill's  
8 5 provisions and penalties. The bill provides that the  
8 6 department of public health may issue an immediate cease and  
8 7 desist order, or seek a temporary or permanent injunction,  
8 8 against a registrant who fails to comply with the bill's  
8 9 provisions, and that state criminal and civil law not relating  
8 10 to the provision of health care shall continue to be  
8 11 applicable. The bill provides that its provisions shall not  
8 12 limit the right of any person to seek relief for negligent or  
8 13 willful harm, or to seek any other civil remedy, and does not  
8 14 restrict the state from taking action regarding the  
8 15 maltreatment of minors.

8 16 The bill appropriates \$500,000 for fiscal year 2007=2008  
8 17 for implementation of the bill.

8 18 LSB 2121SV 82  
8 19 nh:rj/je/5